IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8303 OF 2005

Smt. Sehjahan Alias Sajjo
Wd/o Abdul Qayyum Kamruddin. .. Petitioner.

vs.

Mariam Di & others. .. Respondents.

Mr. M.D. Sugavkar for petitioner.
Mr. M.S. Ahmed for respondent.

CORAM : S.U. KAMDAR, J.
DATE : 6th December, 2005.

P.C.:

. By consent of the parties the following order is passed :-

2. The impugned order dated 11.11.2005 passed by the City Civil Court, Bombay is quashed and set aside. The Execution Application No. 470 of 2002 is remanded back to the trail Court for fresh consideration. It is made clear that the respondent will be entitled to proceed with the execution proceedings in so far as the construction carried out by the judgment debtor contrary to permanent

injunction granted by the decree if any, and apply for demolition thereof by way of execution of the decree. Till and until the said matter is finally heard and Court coming to the conclusion that in spite of the order of demolition passed, if any, in execution proceedings the petitioner has not complied with the said order, then in that event the Court may proceed with alternate mode of execution by way of arrest of the judgment debtor. It is made clear that all issues on merits are expressly kept open to be decided by the trial Court at the hearing. Petition made absolute accordingly. No order as to costs.